

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MEL TYRONE EDWARD

Plaintiff,

No. CIV S-03-2584 ALA P

vs.

S. SCARSELLA, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On March 2, 2006, the magistrate judge in the above-captioned case recommended that plaintiff's motion for summary judgment be denied and the motions of defendants Matthews, Caldero and Correa for summary judgment<sup>1</sup> be granted. The court reviewed the March 2, 2006, magistrate judge's findings and recommendations and took no issue with the denial of plaintiff's motion for summary judgment. However, the court declined to adopt the magistrate judge's recommendation with respect to defendants' motion for summary

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<sup>1</sup>Defendants Saunders and Scarsella opposed plaintiff's motion, but did not file motions for summary judgment.

1 judgment and remanded the case to the magistrate judge for further proceedings. On December  
2 26, 2006, plaintiff filed a motion for a preliminary injunction and on March 20, 2007 filed an  
3 amended motion for a preliminary injunction.

4 On March 30, 2007, the magistrate judge again recommended that the plaintiff's  
5 motion for summary judgment be denied. Additionally the magistrate judge recommended that  
6 defendants' motion for summary judgment be denied and that plaintiff's requests for a  
7 preliminary injunction also be denied. Copies of these findings and recommendations were  
8 served on all parties and contained notices that any objections to the findings and  
9 recommendations were to be filed within twenty days. Neither party has filed objections to the  
10 March 30, 2007, findings and recommendations.

11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-  
12 304, this court has conducted a de novo review of this case. Having carefully reviewed the  
13 entire file, the court finds the Magistrate Judge's March 30, 2007 findings and recommendations  
14 to be supported by the record and by proper analysis.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. The findings and recommendations filed March 30, 2007, are adopted in full;  
17 2. Plaintiff's motion for summary judgment filed April 25, 2005 is denied;  
18 3. Defendants Correa, Caldero and Matthews's motions for summary judgment  
19 filed on June 10, 2005 are denied; and  
20 4. Plaintiff's December 26, 2006 motion for a preliminary injunction and his  
21 March 20, 2007 amended motion for a preliminary injunction are denied.

22 DATED: August 3, 2007

23  
24 /s/ Arthur L. Alarcón  
25 UNITED STATES CIRCUIT JUDGE  
26 Sitting by Designation